

DEC 13 2005

MICHAEL W. DOTTS, ESQ.
O'Connor Berman Dotts and Baner
Second Floor, Nauru Building
P.O. Box 501969
Saipan, M.P. 96950-1969
Tel. No.: (670) 234-5684
Fax No.: (670) 234-5683

For The Northern Mariana Islands
 By _____
 (Deputy Clerk)

Attorneys for Plaintiff Maria Hellena Jebehn

**IN THE UNITED STATES DISTRICT COURT
 FOR THE
 NORTHERN MARIANA ISLANDS**

MARIA HELLENA JEBEHN,

CIVIL ACTION NO.03-0027

Plaintiff,

v.

**JOSEPH JOHN HERRERA;
 ALOHA COUNCIL BOY SCOUTS OF
 AMERICA, INC.; and BOY SCOUTS
 OF AMERICA, INC.,**

Defendants.

**DECLARATION OF
 MICHAEL W. DOTTS IN
 SUPPORT OF MOTION
 TO ENFORCE SETTLEMENT
 AGREEMENT OR IN THE
 ALTERNATIVE, MOTION FOR
 ORDER TO SHOW CAUSE
 AGAINST JOSEPH
 JOHN HERRERA**

I, Michael W. Dotts, declare as follows:

1. I am an attorney licensed to practice in the Commonwealth of the Northern Mariana Islands. I represent Plaintiff Maria Hellena Jebehn in the above captioned matter. I make this declaration upon personal knowledge.

2. On September 10, 2004, Plaintiff and Defendant Joseph John Herrera entered into a Settlement and Release. Attached hereto as Exhibit "A" is a true and correct copy of the Settlement and Release.

3. On September 13, 2004, the Court dismissed the action, but retained jurisdiction to enforce the terms of the Settlement if necessary.

1 4. The Settlement provided that the parties shall maintain the fact of settlement or
2 its terms in strict confidence, except by order of the Court or as necessary to obtain the Court's
3 enforcement of the terms of the Agreement.

4
5 5. The Settlement also provided that Defendant would pay the sum of \$21,000.00 to
6 Plaintiff, payable in monthly installments of \$350.00 due on the first business day of the month,
7 plus 4.5 % interest per annum and a 10% late payment fee.

8
9 6. The Settlement further provided that failure to make a monthly payment within 30
10 days of the due date shall constitute a material breach of the Agreement and the remaining
11 balance shall become immediately due and payable, without the need for further demand.

12
13 7. Notwithstanding the terms of the Settlement, Defendant's payments have been
14 less than \$350.00 a month since March 14, 2005 to the present. In addition, many of his
15 payments were late. Defendant is now in arrears in the amount of \$1,075.00. The total amount
16 due as of November 16, 2005 is \$18,276.04 including principal, 4.5 % interest and 10% late fee.
17 Attached hereto as Exhibit "B" is a Summary of Payments.

18
19
20 8. Plaintiff has incurred attorneys fees and costs in bringing this motion.

21
22 9. This Declaration supports Plaintiff's Motion to Enforce the Settlement Agreement
23 or in the alternative, Motion for an Order to Show Cause against Defendant Herrera in this
24 matter.

25
26 I declare upon penalty of perjury under the laws of the Commonwealth of the Northern
27 Mariana Islands and the United States of America that the foregoing is true and correct to the
28 best of my knowledge and belief, and that if called upon to testify, I could and would testify

competently and in accordance herewith. Executed at Saipan, CNMI, this 12 day of December,
2005.


MICHAEL W. DOTTS

3016-01-051205-DeclMotionEnforceJudgment.OrderShowCause

SETTLEMENT AND RELEASE

This Settlement and Release (the "Release") is made and entered into as of the Effective Date by MARIA HELLENA JEBEHN, ("Mrs. Jebehn"), and the JOSEPH JOHN HERRERA ("Mr. Herrera").

WHEREAS, Mrs. Jebehn served as a volunteer with Boy Scouts troops and packs in the Commonwealth of the Northern Mariana Islands ("CNMI") and continues to so serve;

WHEREAS, Mrs. Jebehn contends that Mr. Herrera, a former volunteer with Boy Scout troops and committees in the CNMI physically assaulted her, without her consent, during a time that both she and Mr. Herrera were engaged in volunteer duties for the Boy Scout troops and packs in the CNMI;

WHEREAS, Mr. Herrera has denied the allegations made against him;

WHEREAS, Mrs. Jebehn filed claims against Mr. Herrera related to the alleged unlawful contact by Mr. Herrera in a lawsuit styled *Jebehn v. Herrera, et al.*, CA No. 03-0027 (D.N.M.I.) (the "Civil Action");

WHEREAS, in order to avoid the uncertainty, time, inconvenience, and expense of further litigation and in recognition of the position and circumstances of the other, Mrs. Jebehn, on the one hand, and Mr. Herrera, on the other hand, desire to compromise, resolve, and settle forever all disputes and matters of controversy among them relating to the Civil Action;

NOW, THEREFORE, for and in consideration of the foregoing premises, the covenants set for herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties to this Release agree and warrant as follows:

1. Without admission of any liability to Mrs. Jebehn in the Civil Action, Mr. Herrera shall pay to Mrs. Jebehn the sum of Twenty One Thousand Dollars (US) (\$21,000.00) plus interest, (the "Settlement Amount"), pursuant to the following terms:

(a) Payment of the Settlement Amount shall be made in monthly installments in the amount of Three Hundred and Fifty Dollars (\$350.00) per month, until the entire Settlement Amount, plus interest, has been paid (the "Monthly Payments").

(b) Interest shall accrue on the Settlement Amount at the rate of four and one half percent (4.5%) per annum, simple interest, based on a 365 day calendar year. Monthly Payments shall be applied first to accrued interest, then to principal.

(c) The Monthly Payments shall be paid by checks drawn on accounts with readily available funds made payable to "O'Connor Berman Dotts & Banes in trust for Helen Jebehn". Checks must be delivered to the O'Connor Law Office on the second floor of the Nauru Building, or mailed to the O'Connor Law Office at P.O. Box 501969, Saipan, MP 96950, or as counsel for Mrs. Jebehn may otherwise direct.

(d) Monthly Payments shall be delivered before close of normal business hours on the first business day of each month ("due date"). Payments may be delivered by mail but if they are mailed they must be mailed so as to be received on or before the due date, or postmarked at least three (3) days before the due date, with correct postage attached, and properly addressed, to be considered timely made.

(e) The first Monthly Payment shall be due on October 1, 2004.

(f) A late fee of ten percent (10%) shall apply to all payments not timely made. Late fees will be added to the total remaining balance of the Settlement Amount and shall become part of the Settlement Amount.

(g) A failure to make a Monthly Payment within thirty (30) days of the due date shall constitute a material breach of this Release and the remaining balance of the Settlement Amount shall become immediately due and payable in full, without the need for further demand. The acceptance of any late Monthly Payments by Mrs. Jebehn shall not constitute a waiver of future strict performance of the terms of this Release.

2. The Parties shall stay at least two hundred (200) feet away from each other at all times and shall avoid all verbal and physical contact with each other.

3. In consideration for the above, Mrs. Jebehn shall cause the Civil Action to be dismissed. The dismissal shall be in a form satisfactory to Mr. Herrera's counsel and shall provide that the Court shall retain jurisdiction to enforce the terms of this Release.

4. The Parties and all of their agents, servants, attorneys, employees, predecessors, successors, assigns, sureties, heirs, affiliates, and insurers, and all persons or individuals claiming by or through them, if any, do hereby absolutely, irrevocably, and unconditionally ACQUIT, RELEASE, and FOREVER DISCHARGE each other and all of their agents, assigns, attorneys, heirs, and insurers of and from any and all claims, debts, damages, demands, actions, crossclaims, counterclaims, causes of action, choses in action, suits, and liabilities whatsoever, whether arising under common law, statute, in equity, or otherwise, of whatever kind or character, known or unknown, accrued or unaccrued, now existing or hereafter arising, direct or indirect, which any of them, may have or claim to have against the other arising out of, related

to, or concerning, in whole or in part, the Civil Action and/or an allegation or claim in the Civil Action, whether the claim is asserted or not in the Civil Action.

5. The parties waive any principle or rule of construction that releases should be narrowly construed and agree that the releases given herein shall be construed in the broadest possible manner for the benefit of the releasees.

6. Mrs. Jebehn represents and warrants that she has not assigned or otherwise transferred to any person or entity any interest whatsoever in any claim, demand, action, or cause of action that she may have or claim to have or had against Boy Scout Releasees, and that she is the sole owners and possessors of the claims released hereunder.

7. Each party hereto warrants and represent that she or it is legally competent to execute this Release and that she or it has read the Release. Each party hereto warrants that no promise or agreement which is not herein expressed has been made; that in executing this Release such party is not relying upon any statement or representation of any other party hereto or of any of their agents, servants, representatives or attorneys, except as stated herein; that such party is relying upon his or her own judgment and/or the advice of such party's own attorneys; and such party fully understands that this is a FULL, FINAL AND COMPLETE RELEASE AND SETTLEMENT of the Released Claims. The English language version of this Release controls.

8. This Release shall be effective upon the date on which Mr. Herrera executes this Release. Such date shall be the "Effective Date".

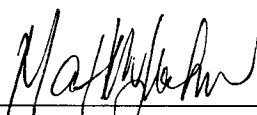
9. Should an action or motion be brought to enforce any of the terms of this Release, the prevailing party shall be entitled to an award of their reasonable attorneys' fees and costs.

10. This Release constitutes the entire understanding and agreement of the parties and supersedes prior understandings and agreements, if any, among the signatories with respect to the subject matter hereof. There are no representations, agreements, arrangements, or understandings, oral or written, concerning the subject matter hereof between and among the parties that are not fully expressed or incorporated by reference herein. This Release and all the terms hereof shall be binding on heirs, successors and assigns.

11. The parties to this Release agree that it shall be maintained in strict confidence by the Parties, with neither the fact of settlement or the terms hereof disclosed to any other except by order of a court of competent jurisdiction or as necessary to obtain the Court's enforcement of the terms of this agreement. In the event of a breach of this provision, the aggrieved party may seek damages as a remedy.


12. This Release may be executed in multiple counterparts, with each executed version constituting a duly authorized original.

Dated: 9/10/04



MARIA HELENA JEBEHN

Dated: 9/10/04



JOSEPH JOHN HERRERA

Jebehn v Herrera/BSP
 Summary of Payments
 3016-01

Balance	Interest Rate	#Days Lapsed	Date	Interest	Late Fee 10%	Payment	Balance	OR#
21,000.00			09/01/04				21,000.00	
21,000.00	4.5%	30	10/01/04	77.67		350.00	20,727.67	3627
20,727.67	4.5%	34	11/04/04	86.89	3.50	350.00	20,468.06	3717
20,468.06	4.5%	29	12/03/04	73.18	3.50	350.00	20,194.74	3765
20,194.74	4.5%	38	01/10/05	94.61	3.50	350.00	19,942.85	3829
19,942.85	4.5%	28	02/07/05	68.84	3.50	350.00	19,665.19	3872
19,665.19	4.5%	35	03/14/05	84.86	3.50	300.00	19,453.55	3955
19,453.55	4.5%	24	04/07/05	57.56	3.50	300.00	19,214.61	4003
19,214.61	4.5%	32	05/09/05	75.81	3.50	300.00	18,993.92	4075
18,993.92	4.5%	30	06/08/05	70.25	3.50	300.00	18,767.67	4154
18,767.67	4.5%	31	07/09/05	71.73	3.50	300.00	18,542.90	4230
18,542.90	4.5%	33	08/11/05	75.44	3.50	275.00	18,346.84	4289
18,346.84	4.5%	32	09/12/05	72.38	3.50	150.00	18,272.72	4338
18,272.72	4.5%	31	10/13/05	69.84	3.50	100.00	18,246.06	4397
18,246.06	4.5%	34	11/16/05	76.48	3.50	50.00	18,276.04	4338

\$ 1,055.54 \$ 45.50 \$ 3,825.00

October	350.00	
November	350.00	
December	350.00	
January	350.00	
February	350.00	
March	350.00	
April	350.00	
May	350.00	
June	350.00	
July	350.00	
August	350.00	
September	350.00	
October	350.00	
November	350.00	4,900.00

Amount in Arrears \$ 1,075.00

SAIPAN OFFICE
Second Floor, Nauru Building
P.O. Box 501969
Saipan, MP 96950-1969
Telephone: (670) 234-5684
Fax: (670) 234-5683
Email: attorneys@saipan.com

O'CONNOR BERMAN DOTT & BANES
ATTORNEYS AT LAW
SAIPAN OFFICE

HONOLULU OFFICE
Suite 2800, Pacific Tower
Bishop Square, 1001 Bishop Street
Honolulu, Hawaii 96813-3580
Telephone: (808) 585-8858
Fax: (808) 599-4198
Email: Mark@Shklovlaw.com

POHNPEI OFFICE
Second Floor, Ace Commercial Bldg.
P.O. Box 1491
Kolonía, Pohnpei, FSM 96941
Telephone: (691) 320-2868
Fax: (691) 320-5450
Email: bermlaw@mail.fm

November 17, 2005

GUAM OFFICE
Suite 503, Bank of Guam Building
111 Chalan Santo Papa
Hagåtña, Guam 96910
Telephone: (671) 477-2778
Fax: (671) 477-4366
Email: bermlaw@kuentos.guam.net

Delivered by Hand

Danilo T. Aguilar
1st floor San Jose Court Bldg.
P.O. Box 505301
Saipan, MP 96950

Re: Jebehn v. Herrera

Dear Mr. Aguilar:

Joseph John Herrera is not in compliance with the payment terms of the settlement. *See enclosed Summary of Payments.*

The Settlement Agreement entered on September 10, 2004 provides for a settlement amount of \$21,000.00, payable in monthly installments of \$350.00 due on the first business day of the month, plus 4.5 % interest per annum and a 10% late payment fee. However, Mr. Herrera's payments have been less than \$350.00 a month since March 14, 2005 to the present. In addition, many of his payments were late. As of November 17, 2005, the amount in arrears is \$1,075.00.

Demand is hereby made for the sum of \$1,075.00. Please have your client make payment to this office within 30 days from the date of this notice. Otherwise, we will be forced to enforce the terms of the settlement agreement in the District Court.

Thank you for your anticipated cooperation. If you have any questions, please feel free to contact me.

Sincerely,



Michael W. Dotts

11/18/05
2:09
Jgi

Jebehn v Herrera/BSP
Summary of Payments
3016-01

Balance	Interest Rate	#Days Lapsed	Date	Interest	Late Fee 10%	Payment	Balance	OR#
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19,942.85	4.5%	28	02/07/05	68.84	3.50	350.00	19,665.19	3872
19,665.19	4.5%	35	03/14/05	84.86	3.50	300.00	19,453.55	3955
19,453.55	4.5%	24	04/07/05	57.56	3.50	300.00	19,214.61	4003
19,214.61	4.5%	32	05/09/05	75.81	3.50	300.00	18,993.92	4075
18,993.92	4.5%	30	06/08/05	70.25	3.50	300.00	18,767.67	4154
18,767.67	4.5%	31	07/09/05	71.73	3.50	300.00	18,542.90	4230
18,542.90	4.5%	33	08/11/05	75.44	3.50	275.00	18,346.84	4289
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April	350.00	
May	350.00	
June	350.00	
July	350.00	
August	350.00	
September	350.00	
October	350.00	
November	350.00	4,900.00
		<u>4,900.00</u>
Amount in Arrears		<u>\$ 1,075.00</u>